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# In the Supreme Court of the United States

OCTOBER TERM, 1977

ZENITH RADIO CORPORATION, PETITIONER

*v.*

UNITED STATES OF AMERICA

*ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF CUSTOMS AND PATENT APPEALS*

## BRIEF FOR THE UNITED STATES IN OPPOSITION

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*ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF CUSTOMS AND PATENT APPEALS*

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**BRIEF FOR THE RESPONDENT IN OPPOSITION**

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**OPINIONS BELOW**

The opinion of the Court of Customs and Patent Appeals (Pet. App. 5a–112a) is reported at 562 F. 2d 1209. The opinion of the Customs Court (Pet. App. 1a–50a) is reported at 430 F. Supp. 242.

**JURISDICTION**

The judgment of the Court of Customs and Patent Appeals was entered on July 28, 1977. The petition for a writ of certiorari was filed on October 11, 1977. Jurisdiction is invoked under 28 U.S.C. 1256.

## QUESTION PRESENTED

Whether a bounty or grant within the purview of Section 303 of the Tariff Act of 1930 is paid or bestowed when the Japanese Commodity Tax, which is imposed upon certain consumer electronic products sold in Japan, is not imposed upon such products exported to the United States.

## STATUTE INVOLVED

Section 303(a) of the Tariff Act of 1930, 46 Stat. 687, as amended, 19 U.S.C. (Supp. V) 1303(a)(1) provides:

> (1) Whenever any country, dependency, colony, province, or other political subdivision of government, person, partnership, association, cartel, or corporation, shall pay or bestow, directly or indirectly, any bounty or grant upon the manufacture or production or export of any article or merchandise manufactured or produced in such country, dependency, colony, province, or other political subdivision of government, then upon the importation of such article or merchandise into the United States, whether the same shall be imported directly from the country of production or otherwise, and whether such article or merchandise is imported in the same condition as when exported from the country of production or has been changed in condition by remanufacture or otherwise, there shall be levied and paid, in all such cases, in addition to any duties otherwise imposed, a duty equal to the net amount of such bounty or grant, however the same be paid or bestowed.



## STATEMENT

1. *History of the Present Litigation.* In April 1970, petitioner, a domestic manufacturer of various consumer electronic products, filed a petition with the Commissioner of Customs requesting the Commissioner to assess countervailing duties, under Section 303 of the Tariff Act of 1930, 46 Stat. 687, 19 U.S.C. 1303, upon various consumer electronic products exported from Japan.[1] Petitioner claimed that the products benefited from bounties or grants conferred by the Government of Japan because, *inter alia,* Japan imposes an ad valorem tax, the Japanese Commodity Tax, when those products are sold in Japan but remits that tax when the products are exported[2] (Pet. App. 2a; R. 320–331).[3]

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[1] In 1970 Congress for the first time provided a statutory mechanism whereby manufacturers and others could require the Secretary to determine whether countervailing duties should be imposed on imported articles. 19 U.S.C. 1516(a). In 1974, Congress made the Secretary's negative countervailing duty determinations subject to judicial review by providing, in 19 U.S.C. (Supp. V) 1516(d), that within 30 days of the publication of such a determination "the manufacturer * * * may commence an action in the United States Customs Court contesting such determination."

[2] In general, the tax is paid by the manufacturer when the goods are shipped from the factory (Pet. App. 2a). The tax is not collected when the products are exported or, if collected, it is rebated. For convenience, as used in this brief, "remitted" or "remission" refers both to the failure to collect the tax upon exported goods and to the rebate of the tax if the tax is first paid and then the goods exported. A "remission" which does not exceed the amount of the tax imposed in the domestic market is referred to as a "non-excessive remission."

[3] "R." refers to the transcript of record filed in the Court of Customs and Patent Appeals, a copy of which has been filed by petitioner in this Court.

In January 1976, after a proceeding in which public comment was invited, the Treasury Department published notice that "on the basis of the additional facts gathered and the investigation conducted pursuant to * * * Customs Regulations * * * a final determination * * *" had been made that no bounty or grant within the meaning of Section 303 had been paid or bestowed by Japan upon the challenged electronic products. 41 Fed. Reg. 1298.

Petitioner then filed this suit in the Customs Court contesting the final determination as it applied to the remission of the Japanese Commodity Tax with respect to certain Japanese electronic products specified in the complaint (R. 11–18). The court granted petitioner's motion for summary judgment. Relying primarily on *Downs* v. *United States,* 187 U.S. 496, the court held that, as a matter of law, the remission of the Japanese Commodity Tax constituted a bounty or grant (Pet. App. 5a). Accordingly, the court ordered the Secretary to determine the net amount of the bounty or grant and to impose a countervailing duty equivalent to that amount upon all Japanese consumer electronic products specified in the complaint entered or withdrawn from warehouse for consumption on or after the day following the court's order (Pet. App. 53a).

The Court of Customs and Patent Appeals reversed and remanded with directions to enter summary judgment for the government. The court held that *Downs* was not controlling because the complex Russian



scheme at issue in that case involved not only the remission of excise taxes to exporters but also further payments to them on the export of sugar. The court concluded that the bounty actually assessed in *Downs* "was found to reside in, and was measured by, an *excess* over the remission of excise taxes" (Pet. App. 67a, n. 12), and that *Downs* did not, therefore, involve the issue presented here—whether a non-excessive remission of a tax, standing alone, constitutes a bounty or grant within the scope of Section 303 (*id.* at 66a). The court further concluded that nothing in the legislative history of the statute indicated that a countervailing duty must be imposed in the circumstances presented here (*id.* at 70a); that the Secretary's interpretation had been consistently followed since 1898 and was therefore entitled to great weight (*id.* at 74a–75a); and that congressional reenactment of the statute with knowledge of the Secretary's interpretation further indicated congressional ratification of that view (*id.* at 76a–82a).

2. *The Government's Position on Countervailing Duties.* A countervailing duty statute pertaining only to imported sugar was first enacted in 1890. That statute was reenacted in 1894 and again in 1897, when it was broadened to cover all imported products and codified in the form in which, for all material purposes, it exists today in Section 303.

Since at least 1898 the Department of the Treasury has adhered to the position that a foreign country's remission of certain indirect taxes, such as excise taxes

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or sales taxes, upon the export of a product is not a "bounty" or "grant" within the meaning of Section 303.[4] For purposes of the countervailing duty statute, the Secretary has drawn a distinction between "indirect taxes", like sales taxes or other taxes imposed on the product itself—the remission of which is not considered a bounty—and "direct taxes", like income taxes imposed directly on the producer—the remission of which is considered to be a bounty. See *American Express Co.* v. *United States,* 472 F. 2d 1050, 1057, n. 9 (C.C.P.A.). The basic theory of the distinction is that the imposition of indirect taxes is customarily left to the country where the products are ultimately sold or consumed. Where a country like Japan imposes such a tax at only one stage—here upon manufacture—the remission of such a tax upon export is regarded not as a "bounty" on export but rather as the elimination of the double taxation that would result from the imposition of similar taxes by the importing country (*e.g.,* a New Jersey sales tax). It is believed that producers do not significantly absorb indirect taxes themselves but instead shift them to the consumer; the remission of such taxes is therefore thought

[4] The Secretary's interpretation of the statute as not encompassing the non-excessive remission of an indirect tax directly related to a product was first announced on May 6, 1898, less than one year after the Tariff Act of 1897 was enacted on July 19, 1897 (30 Stat. 151). See T.D. 19321, 1 Synopsis of Decisions 696 (1898). This interpretation has been consistently followed since that date. *E.g.*, T.D. 19729, 2 Synopsis of Decisions 157, 157–58 (1898); T.D. 20039, G.A. 4261, 2 Synopsis of Decisions 534, 535–536 (1898); T.D. 49355, 73 Treas. Dec. 107 (1938). See T.D. 42895, 54 Treas. Dec 101 (1928); T.D. 43634, 56 Treas. Dec. 342 (1929).



not to affect the producer's decision whether or not to export.[5]

Of course, the remission of indirect taxes by an exporting country will rarely counterbalance exactly the imposition of similar taxes by the importing country, and it is virtually impossible to determine with precision the degree to which taxes are absorbed rather than shifted. The Secretary has adopted a bright-line distinction in order to facilitate administration of the statute and to assist the conduct of foreign trade relations. That distinction, moreover, has been adopted by the General Agreement on Tariffs and Trade,[6] to which the United States is a party, and is accepted as a fundamental principle by every major trading nation in the world.

## ARGUMENT

1. The issue in this case is important to the United States in its trade negotiations with other nations. As we have noted immediately above, the principle that countervailing duties shall not be assessed with respect to the remission of the kind of taxes involved in this case is a basic understanding of existing trade agreements to which the United States is a party. The United States is currently preparing for a major round of negotiations in early 1978, the Multilateral Trade Negotiations, that are being held

[5] See *Executive Branch GATT Studies*, Senate Committee on Finance, 93d Con., 2d Sess. 11–12 (1974), quoted from by the court below (Pet. App. 74a, n. 19).

[6] Article VI(4) of the General Agreement on Tariffs and Trades, 61 Stat. A24, provides "no product * * * imported into

under the auspices of the General Agreement on Tariffs and Trades and that are intended to review a wide range of practices inhibiting or distorting trade, including export subsidies and countervailing duties. Adoption of petitioner's construction of Section 303 not only would risk a significant breakdown in international trading agreements and retaliatory actions from our trading partners but also would undermine our negotiating flexibility in the forthcoming talks. Indeed, so long as the decision below remains subject to review and possible reversal by this Court, there will be considerable uncertainty with respect to this government's position and negotiating options in those discussions.

2. The decision of the Court of Customs and Patent Appeals was correct.

a. The legislative history of the countervailing duty statute indicates that Congress did not intend to require the imposition of countervailing duties on non-excessive remissions of indirect taxes. The statutory obligation to impose countervailing duties first appeared in the sugar tariff of 1890 (Paragraph 237 of the Act of October 1, 1890, 26 Stat. 564, 584; see App., *infra*), which provided that all imported sugars above a certain grade

> shall pay one-tenth of one cent per pound in addition to the rate herein provided for, when

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the territory of any other contracting party shall be subject to * * * countervailing duty by reason of the exemption of such product from * * * taxes borne by the like product when destined for consumption in the country of origin or exportation, or by reason of the refund of such * * * taxes."



> exported from, or a product of any country when and so long as such country pays or shall hereafter pay, directly or indirectly a bounty on the exportation of [certain grades of] sugar * * *.

This provision was reenacted in 1894 in largely the same form, but Congress added the following proviso (Paragraph 182 1/2 of the Act of August 27, 1894, 28 Stat. 509, 521; see App., (*infra*):

> *Provided,* That the importer of sugar produced in a foreign country, the Government of which grants such direct or indirect bounties, may be relieved from this additional duty * * * in case said importer produces a certificate of said Government that no indirect bounty has been received upon said sugar *in excess of the tax collected upon the beet or cane from which it was produced* * * *. [Emphasis supplied.]

In 1897, the countervailing duty statute was revised and made applicable to all imported products (Section 5 of the Tariff Act of July 24, 1897, 30 Stat. 205; see App., *infra*). The proviso in the 1894 statute was deleted, and the method of determining the countervailing duty to be imposed was altered to provide, as Section 303 provides today, that "there shall be levied and paid * * * an additional duty equal to the *net* amount of such bounty or grant * * * (*ibid;* emphasis supplied).

The floor debates on the 1894 and 1897 statutes demonstrate that the phrase "net bounty" added by the 1897 statute was meant to incorporate the principle, expressly set forth in the 1894 proviso, that only excess remissions of taxes triggered the obligation to impose a

countervailing duty. Thus, in the course of the Senate debate on the 1894 provision, its sponsor, Senator Jones, gave as an illustration of the operation of the statute the case of Germany, which paid exporters 21½ cents per hundred pounds of sugar exported but imposed an internal tax of about 15 cents per hundred pounds, so that "there is a net bounty on the exportation of refined sugar of six and a half one hundredths of a cent [per pound]." (26 Cong. Rec. 5705 (1894). And in the course of the debate on the 1897 statute, Senator Allison, sponsor of that provision, advised Senator Jones that "the countervailing duty is only an emulation of your own committee in 1894 * * *" (30 Cong. Rec. 1719 (1897)), and later stated that his proposal was concerned only with "the net bounty, less the taxes and reductions which I have named." (*id.* at 1721). The same understanding is reflected elsewhere in the debates.[7]

While the court below concluded only that nothing in the legislative history "indicates a Congressional intent that countervailing duties must be imposed in response to a nonexcessive remission of an excise tax, the condition now before us" (Pet. App. 70a), we submit that the legislative history affirmatively establishes that Congress intended that countervailing duties were not to be imposed with respect to such

[7] Throughout the debates on the 1897 statute, which focused on German sugar exports, the figures cited for the bounties paid by Germany did not include an addition to account for the fact that Germany remitted or did not collect its internal tax on exported sugar (see 30 Cong. Rec. 1650, 1658, 1674, 1680, 1694, 1719, 1729, 1721–1722 (1897)), although Congress was aware of that fact (26 Cong. 784 (1894) (Senator Quay); 26 Cong. 5706 (1894) (Senator Jones); 30 Cong. Rec. 1646 (1897) (Senator Vest)).



remissions and provides substantial further support for the result reached below.[8]

b. In accordance with the intent of Congress reflected in the legislative history, since 1898 the Department of the Treasury has consistently adhered to the position that the nonexcessive remission of the kind of taxes involved here does not require countervailing duties under the statute (see pages 5–7, *supra*). The reasonable and consistent administrative interpretation of a statute, particularly when it is contemporaneous with the statute's enactment, is entitled to great weight. See, *e.g.*, *Saxbe* v. *Bustos*, 419 U.S. 65, 74; *Udall* v. *Tallman*, 380 U.S. 1, 16; *Norwegian Nitrogen Products Co.* v. *United States*, 288 U.S. 294, 315. There is no reason to depart from that principle here.[9]

[8] The Customs Court accepted petitioner's argument that "net bounty" is so unambiguous a phrase that resort to legislative history is precluded by the plain meaning rule (see Pet. App. 8a), and apparently concluded that in any event "debates in Congress are not appropriate sources of information from which to discover the meaning of a statute passed by that body" (Pet. App. 9a, citing *United States* v. *Trans-Missouri Freight Association*, 166 U.S. 290, 318). Whatever currency such a doctrine may have had at one time, this Court since then often has recognized the relevance of congressional debates, and particularly the statements of sponsors and floor managers of bills, in construing legislation. See *e.g.*, *Train* v. *Colorado Public Interest Research Group*, 426 U.S. 1, 10, 14.

[9] Petitioner does not contend that the Treasury's position in general, or as applied to the tax involved in this case, is arbitrary, capricious, or even unreasonable, or that the economic theories underlying that position are fallacious. Rather, its only contention is that, as a matter of law, remission of taxes upon export, whatever the circumstances, is a grant or bounty giving rise to the obligation to impose a countervailing duty (see Pet. 7–12). Since

c. The Secretary's interpretation of the statute is further supported by the fact that Congress has reenacted the relevant statutory language many times since that interpretation was first announced. Moreover, as the court below noted (Pet. App. 77a) and as petitioner admits (Pet. 13), Congress was specifically informed of the interpretation nearly 30 years ago—and presumably was aware of it before then [10]—and has been repeatedly advised of Treasury's interpretation since that time.[11] Yet Congress has never expressed its disproval of the practice.[12]

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the issue is solely one of law, there is no basis for petitioner's contention (Pet. 18–21) that summary judgment for the government was inappropriate, or that a remand is necessary for a further factual inquiry.

[10] Congress reenacted the relevant statutory language four times between 1898 and 1950. Tariff Act of 1909, 36 Stat. 85; Tariff Act of 1913, 38 Stat. 192; Tariff Act of 1922, 42 Stat. 935; Trade Act of 1974, Section 331(a), 88 Stat. 2049. As the court below noted (Pet. App. 77a), it is difficult to assume that Congress took this action without knowledge of the Secretary's practice.

[11] Hearings on H.R. 6767 before the House Committee on Ways and Means, 93d Cong., 1st Sess. 2244–2246, 2419, 2421, 5126–5130, (1973); S. Rep. No. 91–1481, 91st Cong., 2d Sess. 284–85 (1970); 2 Compendium of Papers on Legislative Oversight Review of U.S. Trade Policies, Senate Committee on Finance, 90th Cong., 2d Sess. 475–476, 568–569, 887–889, 918–919 (1968); Hearings on H.R. 1612 before the Senate Committee on Finance, 82d Cong., 1st Sess., 1197 (1951); Hearings on H.R. 1535 before the House Committee on Ways and Means, 82d Cong., 1st Sess. 2, 79 (1951).

[12] In 1950 and 1951, the Department of the Treasury proposed an amendment to the countervailing duty statute which, *inter alia*, would have incorporated the Secretary's practice into the statutory language. See H.R. 8304, 81st Cong., 2d Sess. (1951); Hearings on H.R. 1535 before the House Committee on Ways and Means, 82d Cong., 1st Sess. 2, 79 (1951). The proposed provisions, subsequently incorporated into H.R. 5505 (see Hearings on H.R. 5505 before the Senate Committee on Finance, 82d Cong., 2d Sess. 2 (1952)), was not enacted into law. However, as the court below found (Pet. App. 77a), the only congressional objection to the proposed amendment was directed to the fact that it would have added a requirement to the bill prohibiting the imposition of a countervailing duty if the "bounty or grant" did not cause injury to a domestic industry. See Hearings on H.R. 5505 before the Senate Committee on Finance, *supra*, at 115, 124–125. Therefore, as the court below correctly held (Pet. App. 77a–78a), the failure to adopt the amendment does not indicate congressional disagreement with the Secretary's reading of the statute.



Indeed, in 1973, in the course of its most recent consideration of the statute, Congress was specifically apprised of the remission of the Japanese Commodity Tax and of petitioner's countervailing duty petition which was then pending before the Secretary. See Hearings on H.R. 6767 before the House Committee on Ways and Means 93d Cong., 1st Sess. 2169–2171, 2496–2500, 3097, 3292–3293, 3814–3815, 1973. Although a witness specifically requested an amendment to the statute so as to encompass the non-excessive remission of a tax,[13] Congress refused to adopt the amendment and reenacted the statute without any change in the language which the Secretary has consistently interpreted as not encompassing such a remission. 88 Stat. 2049. By doing so, Congress ratified the Secretary's construction of the statute. See, *e.g.*, *Saxbe* v. *Bustos*, *supra*; *Massachusetts Mutual Life Ins. Co.* v. *United*

[13] See Hearings on H.R. 6767 before the House Committee on Ways and Means, *supra*, at 2169–2171, 2496–2500, 3097, 3292–3293, 3814.

*States,* 288 U.S. 269 273; *Komada* v. *United States* 215 U.S. 392.[14]

d. Contrary to petitioner's contention (Pet. 8–9), the decision below is not inconsistent with *Downs* v. *United States, supra.* As the court below found (Pet. App. 61a), the *Downs* case involved a complex scheme designed by the Russian government to protect its sugar industry and to promote exportation of sugar. This scheme involved, *inter alia,* a high import tariff on sugar; an estab-

[14] Petitioner's contention to the contrary (Pet. 13) is incorrect. Thus, for example, petitioner incorrectly states (Pet. 13–14) that Congress was informed of a "conflict" between the Secretary's practice and judicial decisions on the question. In fact, Congress was informed in 1951 that the judicial opinions were not clear and that the amendment to the countervailing duty then proposed by the Department of the Treasury would "eliminate the possibility of [judicial] rulings in conflict with the administrative practice which has been followed for over 50 years" (see Pet. App. 26a).

Petitioner also contends (Pet. 14) that after notification of the Secretary's practice in 1968, Congress took action which indicated congressional disapproval of the Secretary's interpretation of Section 303. In fact, the only "action" taken occurred in 1970, two years later, and took the form of a request for a study in the matter (Pet. App. 103a–104a).

Similarly, petitioner alleges (Pet. 16–18) that Congress amended the statute in 1975 and thereby indicated its disapproval of the Secretary's practice. However, the only amendment to Section 303 related to the administration of the statute, including the establishment of time limits for investigations, publication of decisions, and judicial review. See 88 Stat. 2049. No change was made in the substance of the statute and no disapproval of the Secretary's construction was expressed. See S. Rep. No. 93–1298, 93d Cong., 2d Sess. 183–191 (1974).



lished domestic price which was higher than the world price; a limitation, enforced in part by double excise taxation, upon the quantities of sugar that could be sold domestically; remission of the excise tax upon exportation; and permission, in the form of a marketable certificate, for producers to market, at the high domestic price, a quantity of sugar equivalent to the quantity of sugar exported. *Downs* v. *United States, supra,* 187 U.S. at 502–511.

The opinion of this Court in *Downs* sustaining the Secretary's finding of a bounty does contain a statement to the effect that when a tax is imposed on goods sold in the domestic market but is remitted upon the goods when exported, a bounty upon exportation results. 187 U.S. at 515. However, this statement must be considered in the context of the entire interrelated Russian scheme considered and discussed at length in *Downs,* and can at most be read to indicate that the remission of excise taxes in combination with the grant of valuable certificates to exporters constitutes a bounty or grant. Moreover, the record in that case indicates, as the court below found (Pet. App. 67a, n. 12), that the countervailing duty assessed by the Secretary did not in fact include the amount of the excise tax remissions.[15] The question whether the non-

[15] A photocopy of a memorandum of the Secretary of the Treasury which was attached to the brief of the United States before the Board of General Appraisers in *Downs* was attached as

excessive remission of a tax, standing alone, constitutes a bounty or grant was not before the Court in *Downs*, and the opinion cannot be taken as having decided that question."[16]

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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DECEMBER 1977.

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Appendix C to Defendant's Brief in Opposition to the Plaintiff's Motion for Summary Judgment and in Support of Defendant's Cross-Motion for summary Judgment filed in the Customs Court below. This memorandum, the authenticity of which is not challenged by petitioner, demonstrates that countervailing duty imposed in *Downs* was not based upon the remission of the excise tax but upon the value of the marketable certificates.

[16] Nor is the decision below in conflict with this Court's decision in *Nicholas & Co.* v. *United States*, 249 U.S. 34. In that case, the Secretary imposed a countervailing duty because of an "allowance" received by the British distillers, not because of remitted taxes. T.D. 34466, 26 Treas. Dec. 825 (1914). Indeed, the Board of General Appraisers specifically noted that the remission of the tax was not before it. T.D. 35595, 29 Treas. Dec. 59 (1915). See also, 7 Cust. Appls. Rep. 97, 104; 249 U.S. at 37. Thus the question whether the remission of a tax constituted a bounty or grant was not presented in *Nicholas*.

## APPENDIX

Paragraph 237 of the Act of October 1, 1890, 26 Stat. 584 provided:

> All sugars above number sixteen Dutch standard in color shall pay a duty of five-tenths of one cent per pound: *Provided*, That all such sugars above number sixteen Dutch standard in color shall pay one-tenth of one cent per pound in addition to the rate herein provided for, when exported from, or the product of any country when and so long as such country pays or shall hereafter pay, directly or indirectly, a bounty on the exportation of any sugar that may be included in this grade which is greater than is paid on raw sugars of a lower saccharine strength; and the Secretary of the Treasury shall prescribe suitable rules and regulations to carry this provision into effect: * * *.

Paragraph 182½ of the Act of August 27, 1894, 28 Stat. 521 provided:

> There shall be levied, collected, and paid on all sugars and on all tank bottoms, sirups of cane juice or of beet juice, melada, concentrated melada, concrete and concentrated molasses, a duty of forty per centum ad valorem, and upon all sugars above number sixteen Dutch standard in color and upon all sugars which have been discolored there shall be levied, collected, and paid a duty of one-eighth of one cent per pound in addition to the said duty of forty per centum ad valorem; and all sugars, tank bottoms, sirups of can juice or of beet juice, melada, concentrated melada, con-

crete or concentrated molasses, which are imported from or are the product of any country which at the time the same are exported therefrom pays, directly or indirectly, a bounty on the export thereof, shall pay a duty of one-tenth of one cent per pound in addition to the foregoing rates: *Provided,* That the importer of sugar produced in a foreign country, the Government of which grants such direct or indirect bounties, may be relieved from this additional duty under such regulations as the Secretary of the Treasury may prescribe, in case said importer produces a certificate of said Government that no indirect bounty has been received upon said sugar in excess of the tax collected upon the beet or cane from which it was produced, and that no direct bounty has been or shall be paid: * * *.

Section 5 of the Tariff Act of July 24, 1897, 30 Stat. 205 provided:

> That whenever any country, dependency, or colony shall pay or bestow, directly or indirectly, any bounty or grant upon the exportation of any article or merchandise from such country, dependency, or colony, and such article or merchandise is dutiable under the provisions of this Act, then upon the importation of any such article or merchandise into the United States, whether the same shall be imported directly from the country of production or otherwise, and whether such article or merchandise is imported in the same condition as when exported from the country of production or has been changed in condition by remanufacture or otherwise, there shall be levied and paid, in all such cases, in addition to the duties otherwise imposed by this Act, an additional duty equal to the net amount of such bounty or grant, however the same be paid or bestowed. The net amount of all such bounties or



> grants shall be from time to time ascertained, determined, and declared by the Secretary of the Treasury, who shall make all needful regulations for the identification of such articles and merchandise and for the assessment and collection of such additional duties.

Section 303 of the Tariff Act of 1930, 46 Stat. 687, as amended, 19 U.S.C. (Supp. V) 1303 provides in pertinent part:

> (a) *Levy of countervailing duties.*
>
> (1) Whenever any country, dependency, colony, province, or other political subdivision of government, person, partnership, association, cartel, or corporation shall pay or bestow, directly or indirectly, any bounty or grant upon the manufacture or production or export of any article or merchandise manufactured or produced in such country, dependency, colony, province, or other political subdivision of government, then upon the importation of such article or merchandise into the United States, whether the same shall be imported directly from the country of production or otherwise, and whether such article or merchandise is imported in the same condition as when exported from the country of production or has been changed in condition by remanufacture or otherwise, there shall be levied and paid, in all such cases, in addition to any duties otherwise imposed, a duty equal to the net amount of such bounty or grant, however, the same be paid or bestowed.

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